

FILED 08 MAR 10 15:04 USDC-ORM

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

BILLY L. BROSOWSKE,

Plaintiff,

Civil No. 07-94-CL

v.

FINDINGS AND
RECOMMENDATION

MARION COUNTY SHERIFF
DEPUTY DINARDO, et al.,

Defendants.

CLARKE, Magistrate Judge.

By Order (#8) entered March 19, 2007, plaintiff's application to proceed in forma pauperis was allowed and the Clerk of the Court was requested to send plaintiff the appropriate (summons) forms for service by the U.S. Marshal's Service. Plaintiff was advised that it was his responsibility to complete the forms and return them to the court.

Plaintiff did not return the completed forms to the court

as directed and by Order (#14) entered January 14, 2008, the Clerk was requested to re-send plaintiff the forms. Plaintiff was allowed 30 days to return the completed forms and advised that failure to do so would result in the dismissal of this action for failure to prosecute.

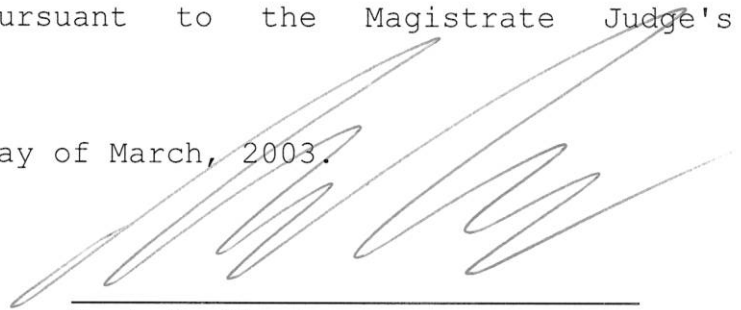
Plaintiff has not returned the summons as directed in the court's order.

This action should be dismissed for plaintiff's failure to comply with the requirements of Federal Rule of Civil Procedure 4(m) ["Time limit for Service"] and for failure to prosecute. Because the time limit for service has already been extended pursuant to Fed. R. Civ. P 4(m), the dismissal should be with prejudice.

This recommendation is not an order that is immediately appealable to the Ninth Circuit Court of Appeals. Any notice of appeal pursuant to Rule 4(a)(1), Federal Rules of Appellate Procedure, should not be filed until entry of the district court's judgment or appealable order. The parties shall have ten (10) days from the date of service of a copy of this recommendation within which to file specific written objections with the court. Thereafter, the parties have ten (10) days within which to file a response to the objections. Failure to timely file objections to any factual determinations of the Magistrate Judge will be considered a

waiver of a party's right to de novo consideration of the factual issues and will constitute a waiver of a party's right to appellate review of the findings of fact in an order or judgment entered pursuant to the Magistrate Judge's recommendation.

DATED this 10 day of March, 2003.

A handwritten signature in black ink, appearing to read 'Mark D. Clarke', is written over a horizontal line.

Mark D. Clarke
United States Magistrate Judge